



COUNCIL AGENDA: 03-16-04  
ITEM:

# Memorandum

**TO:** HONORABLE MAYOR AND  
CITY COUNCIL

**FROM:** Del D. Borgsdorf  
Harry Mavrogenes

**SUBJECT: DOWNTOWN ZONING AND  
GUIDELINES ADOPTION**

**DATE:** March 3, 2004

**COUNCIL DISTRICT:** 3  
**SNI AREA:** None

## **RECOMMENDATION**

Recommendations appear on the individual memos of the three projects being heard concurrently during the evening session.

## **BACKGROUND**

The *San Jose Greater Downtown Strategy for Development: Strategy 2000* (Strategy 2000 Plan) established the framework as to the City's expectations for the context, character and quality that will define San Jose, while inviting the creativity and design excellence that is the City's goal, which can only be provided by the designers. On March 16<sup>th</sup>, the City Council and Agency Board will consider three items related to the overall Downtown regulatory framework that will eliminate the guesswork a developer and their architect must do when preparing a concept for the development of a Downtown parcel, allowing faster, more predictable decisions. The three items are the:

- Downtown Zoning Ordinance
- Downtown Rezoning
- Downtown Design Guidelines

These three approvals implement direction from Getting Families Back to Work and build upon previous City Council and Agency Board actions accepting the Strategy 2000 Plan in early 2001. Other actions previously approved by the Council include approving the Downtown San Jose Historic District Design Guidelines, Diridon Master Plan, Market Almaden SNI Plan and the Mixed Use Project EIR.

### **Near Term Projects Underway**

The City staff is currently completing the review of the Strategy 2000 Plan EIR that will be utilized by private and publicly funded projects to implement the *San Jose Greater Downtown Strategy for Development: Strategy 2000*. This EIR will provide project level environmental review for most new development in the Downtown Core and Frame in the future and allow development projects to be considered for approval much faster than previously possible. Following the certification of the Strategy 2000 Plan EIR this Spring, the plan will be formally adopted.

### **Other Future Actions**

Following approval of the Downtown Zoning District, rezoning of Downtown, and adoption of the Downtown Design Guidelines, several other important actions will be brought before the City Council and or the Agency Board for adoption. These include the Strategy 2000 Plan EIR under preparation and estimated for certification at the end of the year. Following certification of the EIR, the Strategy 2000 Plan will be presented to the Agency Board for adoption.

Separate from the Strategy 2000 Plan adoption, staff is using the recently adopted Downtown San Jose Historic District Design Guidelines, which apply only to the National Register Historic District, as a basis to create guidelines for all historic buildings in the Downtown (Historic Guidelines). . These Historic Guidelines would provide a resource for the rehabilitation of historic buildings in the Downtown that are not covered by the Downtown San Jose Historic District Design Guidelines or the St. James Square Historic District Design Guidelines. The Historic Guidelines are anticipated to be presented to the City Council and Agency Board in June following the public outreach efforts recently started.

Beyond these imminent actions and activities, there are several issues that warrant additional consideration as resources become available. These include the expansion of the Downtown Core and Frame, review of the ground floor retail ordinance, alignment of other policies and studies with the new ordinances and guidelines, design review approval processes, and Amenity Implementation Planning. Each of these major issues is briefly discussed below:

**Downtown Core and Frame Expansion** - The Strategy 2000 Plan identified the concept of the Greater Downtown expanding westward into Diridon and Midtown areas, and later northward to the Coleman Corridor. As a part of the Strategy 2000 Plan EIR, the first area of expansion is being reviewed. General Plan Amendments and rezoning would be required as well as changes to policies and regulations utilizing the existing boundaries.

**Ground Floor Retail Ordinance** – The Downtown Association during the public outreach efforts with the zoning and guidelines made note on each occasion of the need to reevaluate the current restriction of ground floor uses. The concern raised was that with a soft real estate market, filling space, especially Unreinforced Masonry Buildings (URM's) was

critical to the success of the major investments being made by developers such as CIM and others.

**Policy and Study Alignment** –The numerous policy and study documents that cover the Downtown Core and Frame should be reviewed and revised as needed to prevent internal conflicts between the documents for building design related items. Where appropriate, rescinding previous policy and study documents where they have been superceded by these latest additions to the development framework, or no longer relevant.

**Design Review Approval** – Comments from the Downtown Association have centered on helping developers get through the process quickly while obtaining high quality new development. They were concerned that there may not be adequate staff experience to achieve this goal. They also desired a process that publicly vetted projects early in the process and consolidated the public review to avoid multiple meetings and hearings on the same project. The Historic Landmarks Commission Design Subcommittee also thought that having a very structured public review process that included architectural professionals would help to obtain quality sensitive designs in a timely manner.

**Amenity Implementation Plan** – The adoption of the many studies and plans in and around Downtown identify a number of improvements to be built. To date, these have not been coordinated nor an implementation strategy developed to allow developers to easily determine what the specific improvements will be for their project before they enter into purchase contracts. This plan would look at planned but unbuilt amenities in the Core and Frame, and make assumptions on anticipated levels of development to apportion fairly these improvement costs.

### **Administration**

Staff will use the Downtown Zoning and Design Guidelines upon adoption to review all new development proposed in the Downtown Core. Where other documents exist, staff will refer to those documents for relevant area and site-specific information that furthers the implementation of these Guidelines. Where conflicts exist, staff will look to the General Plan, Strategy 2000 Plan, Zoning, and Downtown Design Guidelines as the hierarchy of policy direction. Topic specific documents such as the SNI plans, Specific Plans and Guidelines such as the Historic Guidelines referred to above or Guadalupe River Park and Gardens will also be used to ensure a complete review of the projects.

Staff will acknowledge any conflicting policy direction, if such exists, in the staff review and public outreach efforts to allow full disclosure of the policy direction staff proposes to implement.

The City Council adopted Design Review Process for Downtown projects will be used by staff as the framework for staff review. That process will be used for the review of new development,

incorporating the Public Outreach Policy to ensure adequate public participation, matched to the scale and scope of the respective development proposals.

Consistent with the objectives of the proposed Core rezone to provide an expeditious process, design review would be conducted by staff in accordance with the Guidelines. Because of the community-wide impact of high-rise structures that exceed FAR 6:1 and 150 feet in height, the proposed zoning ordinance recognizes that a greater degree of subjective scrutiny is appropriate. Accordingly, the action of the Planning Director on such projects can be appealed directly to the City Council rather than the Planning Commission.

### **ANALYSIS**

The attached chart on *Downtown Development Framework*, shows the relationship of these pending actions with previous approvals. The chart also shows remaining scheduled actions that will ultimately complete the regulatory framework for Downtown. Also listed are issues and projects identified by the public outreach process for this effort that are not scoped nor in a work plan, but may warrant Council discussion at a later date following implementation of the zoning and guidelines.

### **PUBLIC OUTREACH**

The Strategy 2000 Plan, which was prepared under the auspices of The Task Force for the Greater Downtown Strategy for Development was the result of an ongoing public process. The draft Guidelines were presented to the Planning Developer Roundtable, the Downtown Association, The Planning Commission, Historic Landmarks Commission Design Review Committee and several downtown architects. Comments from these groups were presented in the analysis portion of this report. All the documents related to the Downtown Zoning and Design Guidelines are available on the City web site including on a page created specifically for the Downtown Rezoning and Guideline effort.

### **COORDINATION**

This proposal is the result of a coordinated effort of the Department of Planning, Building and Code Enforcement and the San Jose Redevelopment Agency.

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**CEQA**

San Jose 2020 General Plan EIR, Resolution # 65459

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City Manager

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cc:  
Planning Commission  
Historic Landmarks Commission  
Downtown Association  
Chamber of Commerce  
Preservation Action Council of San Jose